

IN THE IOWA DISTRICT COURT FOR WOODBURY COUNTY

PAULA ASHCROFT a/k/a PAULA	*	LACV 201235
ASHCRAFT and RICK ASHCROFT	*	
a/k/a RICK ASHCRAFT	*	
Plaintiffs,	*	
	*	FIRST AMENDED
vs.	*	PETITION AND JURY DEMAND
	*	
WALMART, INC d/b/a SAM'S CLUB	*	
and d/b/a SAM'S WHOLESALE CLUB,	*	
SAM'S REAL ESTATE BUSINESS	*	
TRUST,	*	
Defendants.	*	

COME NOW the Plaintiffs, Paula Ashcroft a/k/a Paula Ashcraft (hereinafter "Paula") and Rick Ashcroft a/k/a Rick Ashcraft (hereinafter "Rick") and, for their claim against Defendant Walmart, Inc. d/b/a Sam's Club and d/b/a Sam's Wholesale Club (hereinafter collectively "Sam's Club"), state:

1. Paula and Rick are residents of Sioux City, Woodbury County, Iowa.
2. Sam's Club is a corporation registered with, and authorized by, the Iowa Secretary of State to do business in the State of Iowa.
3. On February 10, 2020 (hereinafter "Time of Incident"), Sam's Club owned, and operated, a retail store located at 4201 S York Street, Sioux City, Woodbury County, Iowa, a/k/a Woodbury Parcel ID 884813476005 (hereinafter "Place of Incident").
4. At the Time of Incident, Paula was a business invitee of Sam's Club at the Place of Incident.
5. At the Time and Place of Incident, Paula had just entered the store when the cart boys, who were operating the motorized cart pusher with approximately 30-35 carts on it directly into her.

6. At the time and Place of Incident, Sam's Club breached its duty to maintain a safe premises for its business invitees by (a) failing to supervise its employees/cart boys; (b) failing to discover a dangerous situation; (c) failing to warn its business invitees of unmarked and/or unattended hazards in common ways and/or (d) in otherwise failing to exercise reasonable care to protect its business invitees against the danger presented by unsupervised and out of control employees/cart boys.

6. As a proximate result of Sam's Club's negligence in creating, failing to cure, and/or failing to warn business invitees of this dangerous condition/situation, and/or otherwise failing to exercise reasonable care to protect its business invitees, Paula sustained damages, including past and future physical and mental pain and suffering, past and future medical expenses, past and future loss of function of her body, lost wages, and loss of future earning capacity.

7. As a proximate result of Sam's Club's negligence in creating, failing to cure, and/or failing to warn business invitees of this dangerous condition/situation, and/or otherwise failing to exercise reasonable care to protect its business invitees, Rick has been deprived of his wife's services, aid, comfort, society, companionship and conjugal affections within their home, all to his damage.

8. The amount in controversy in this action is in excess of the jurisdictional amounts set forth in Iowa Code §§631.1 (2021) and 602.6306 (2021).

WHEREFORE, Paula and Rick pray for judgment against the Defendants in an amount which will fully, fairly and completely compensate them for all injuries and damages they have sustained from Defendants' negligence, together with interest as provided by law, and the costs of this action.

MAYNE, HINDMAN, FREY, PARRY & WINGERT

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JURY DEMAND

COME NOW the Plaintiffs and demand trial by jury of all issues so triable.

MAYNE, HINDMAN, FREY, PARRY & WINGERT

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